


## SCHEDULE "B"

|   |   |                      |                                       |
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|  | <b>HUMAN RESOURCES</b><br><b>STANDARD OPERATING PROCEDURE</b><br><b>WORKPLACE VIOLENCE &amp; HARASSMENT</b><br><b>PROGRAM</b> |                      | HR- 2017-01                           |
|   |   |                      | Issued: Human Resources               |
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| Prepared By: Jennifer Galea   |   | Reviewed By: Council | Approved By: Council                  |

### 1.0 PURPOSE

The Town of Kingsville is committed to building and preserving a safe, productive and healthy working environment based on mutual respect. In pursuit of this goal, the Town of Kingsville does not condone and will not tolerate acts of violence, harassment or bullying against or by any Town of Kingsville employee.

This policy prohibits reprisals against individuals acting in good faith who report incidents of workplace violence or act as witnesses. Management will take all reasonable and practical measures to prevent reprisals, threats of reprisal or further violence. It is a violation for anyone to knowingly make a false complaint of violence or harassment or to provide false information about a complaint. Individuals who violate any part of this policy are subject to disciplinary and corrective action, up to and including termination of employment.

The Town of Kingsville will ensure that all employees are trained and educated on violence and harassment and that they are clear about their roles, responsibilities, as this policy, the corresponding program and all workplace procedures. A copy of this policy will be made available to all employees.

### 2.0 SCOPE

This policy applies to all individuals working for the organization, including council members, committee members, volunteers, employees, contract service providers, contractors, all supervisory personnel, managers, officers and directors. The Town of Kingsville will not tolerate violence or harassment by any of the above listed personnel.

The Town of Kingsville will not tolerate any form of harassment or discrimination against job candidates and employees on any of the protected grounds, whether during the hiring process or during employment. This commitment applies to such areas as training, performance assessment, promotions, transfers, layoffs, remuneration and all other employment practices and working conditions.

All Town of Kingsville employees are personally accountable and responsible for enforcing this policy and must make every effort to prevent discrimination or harassing behaviour and to intervene immediately if they observe a problem or if a problem is reported to them.

This policy applies at the workplace, at employment-related social functions, in the course of work assignments outside the workplace, during work-related travel, over the telephone, if the conversation is work-related or elsewhere, if the person is there as a result of work-related responsibilities or a work-related relationship.

### **3.0 DEFINITIONS**

Complainant(s): the person(s) who experiences the negative impacts and is the target(s) of the violent and / or discriminatory and / or harassing behaviour of the respondent.

Discrimination: any action or inaction that differentiates between people and imposes a disadvantage or withholds an advantage on the basis of any of the protected grounds under the Ontario Human Rights Code. Deliberately excluding a person from participating in an initiative is a form of discrimination if the exclusion is based on one of the protected grounds. Discrimination also includes the failure to provide appropriate accommodation short of undue hardship in accordance with the Ontario Human Rights Code.

Domestic Violence: a person who has a personal relationship with a worker - such as a spouse or former spouse, current or former intimate partner or a family member - may physically harm or attempt or threaten to physically harm that worker at work. In these situations, domestic violence is considered workplace violence.

Harassment: a course of vexatious comments or conduct directed toward an individual or group of individuals that is known or ought to be known to be unwelcome or unwanted. Where the harassment consists of comments or conduct linked to one of the protected grounds that are insulting, intimidating, humiliating, malicious, degrading or offensive or affects the Town of Kingsville's atmosphere, it is also a form of discrimination under the Ontario Human Rights Code. Though harassment often involves a pattern of behaviours, single acts of sufficient severity may constitute harassment. Harassment is concerned with the impact of behaviour, not the intent, and there are times when a person who is committing an act of harassment is unaware of the impact of his / her behaviour.

Protected Grounds: personal attributes that are recognized under the Ontario Human Rights Code as the most common targets of discriminatory or harassing actions. For offensive behaviour to be considered discrimination, the focus of the comment or conduct must be directed toward one, but not limited to any one or combination of, these aspects of the complainant's background:

- Age
- Ethnic or National Origin
- Place of Origin
- Citizenship
- Colour
- Creed or Religion
- Record of Offenses (pardoned Federal or Provincial)
- Marital and Family Status
- Race

- Gender Identity and Gender Expression
- Sex
- Sexual Orientation
- Physical or Mental Disability
- Ancestry

Reprisal: any act of retaliation, either direct or indirect.

Respondent(s): the person(s) who is allegedly engaging in the violent and / or discriminatory and / or harassing behaviour against the complainant(s) and will be responding to the allegations as part of an intervention to resolve the complaint.

Workplace Sexual Harassment:

(a) engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or

(b) making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome;

Violence or Bullying:

(a) the exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker,

(b) an attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker,

(c) a statement or behaviour that it is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker.

## **4.0 REFERENCE DOCUMENTS**

Workplace Violence and Harassment Policy

Workplace Violence and Harassment Incident / Complaint Form

Workplace Violence and Harassment Investigation Follow-Up Form

Workplace Violence and Harassment Risk Assessment Standard Operating Procedure

Workplace Violence and Harassment Risk Assessment Form

Domestic Violence Safety Plan Standard Operating Procedure

Domestic Violence Safety Plan Form

## **5.0 RESPONSIBILITIES**

### **5.1 Responsibilities of Town Council**

Town Council shall ensure adequate human and financial resources are made available to Administration to meet the prescribed requirements of the Occupational Health and Safety Act and corresponding regulations.

## **5.2 Responsibilities of the Chief Administrative Officer (CAO)**

The CAO shall support and maintain a safe and healthy workplace for all Town of Kingsville employees free from the exposure of workplace violence and harassment. The CAO will take on the role of Violence and Harassment Coordinator in the absence of the Human Resources Manager.

## **5.3 Responsibilities of Supervisors / Managers / Directors**

1. Ensure their behavior at all times reflects this policy in their dealings with peers, employees, contractors, residents or any other person in dealings regarding the Town of Kingsville.
2. Document, report and duly investigate any incident(s) of workplace violence and / or harassment, where a worker identifies that they are experiencing violence or harassment in the workplace or are being compromised in their ability to perform their job duties as a result of violence and / or harassment, as per the Workplace Violence and Harassment Program. This includes incidents of violence and / or harassment that are reported by third parties, where the complainant may or may not make a formal report.
3. Ensure employees receive training to make them aware of the Workplace Violence and Harassment Policy and Program.
4. Ensure employees refrain from actions that may expose themselves or other workers to any unnecessary exposure to workplace violence and harassment.
5. Attend and participate in all Health and Safety training provided in relation to this policy and the prevention of Workplace Violence and Harassment.

## **5.4 Responsibilities of Human Resources Manager**

The Human Resources Manager is designated as the Workplace Violence and Harassment Coordinator (the Coordinator) and is:

1. Responsible for the maintenance of the Workplace Violence and Harassment Policy and Program in compliance with the requirements of the Occupational Health and Safety Act and any corresponding regulations.

2. Responsible for the development of a plan of communication and training of this policy and the corresponding program to inform employees and officials of its existence and use.
3. Required to conduct investigations of complaints in a timely manner and provide a copy of completed investigation report to the Personnel Committee, appropriate management member(s), complainant and respondent.
4. In consultation with the Joint Health and Safety Committee, the Coordinator is responsible for ensuring the policy is reviewed on an annual basis to certify it complies with all applicable legal standards, codes and practices and is working effectively to ensure a safe and healthy work environment for all staff. If inadequacies in this policy or corresponding program are identified, the Coordinator will address deficiencies and recommend revisions.
5. The preparation of the initial assessment of the risk of violence and harassment and re-assess with consultation of the Joint Health and Safety Committee of the risk of workplace violence and harassment as often as is necessary to ensure that this policy and its related program continue to protect workers from workplace violence and harassment.

Where the Coordinator is a party to an incident of workplace violence or harassment or the Coordinator is absent, the CAO shall be designated as the Workplace Violence and Harassment Coordinator for that incident.

## **5.5 Employees**

1. Refrain from comments and behaviour that may be considered discriminatory and / or harassing and not engage in any level of workplace violence.
2. Express their disapproval if they encounter discriminating and / or harassing behaviour on Town of Kingsville premises or Town of Kingsville related functions.
3. Employees shall not use, possess or threaten to use a weapon at any time.
4. Employees who witness any threats or acts of violence, discrimination and / or harassment shall report to the Coordinator immediately.
5. Employees who experience any threats or acts of violence, discrimination and / or harassment shall report to the Coordinator immediately.

## **5.6 Joint Health and Safety Committee (JH&S Committee)**

1. Participate in inspections and maintain records of Workplace Violence and Harassment Risk Assessments and provide recommendations to the Coordinator on how to reduce or eliminate identified risks of violence and harassment.
2. Promptly report employee concerns of workplace violence or harassment to the Coordinator.
3. Participate in the investigation of critical injuries (e.g., incidents that place life in jeopardy or result in substantial blood loss or fracture of arm or leg).
4. Review all reports forwarded to the JH&S Committee regarding Workplace Violence or Harassment and other incidents as appropriate pertaining to incidents of workplace violence that result in personal injury or threat of personal injury, property damage, or police involvement.
5. Support the Coordinator in communication and training related to the Workplace Violence and Harassment Policy and Program.
6. Participate in the review of this Policy on an annual basis.

## **6.0 Violence and Harassment Risk Assessment**

As outlined in the Workplace Violence and Harassment Risk Assessment Standard Operating Procedure, the Town of Kingsville will conduct a Risk Assessment of the work environment to identify any issues related to potential violence or harassment that may affect the operation and will institute measures to control any identified risks to employee safety.

Risk Assessments may include review of records and reports including incident or accident investigation reports, staff perception surveys, health and safety inspection reports, first aid records or other related records. Specific areas that may contribute to risk of violence may include, but are not limited to, contact with the public, exchange of money, receiving doors and working alone or at night. Research will include a review of similar workplaces with respect to their history of violence.

The Town of Kingsville will communicate information relating to a person with a history of violence where:

- Workers may reasonably be expected to come into contact with the person in the performance of their job duties; and

- There is a potential risk of workplace violence as a result of interactions with the person with a history of violence.

The Town of Kingsville will only disclose personal information that is deemed reasonably necessary to protect the worker from physical harm.

## **7.0 Complaint Procedures**

The following procedures have been established so that complaints of violence and / or harassment can be resolved internally. However, it in no way prevents employees from exercising their rights under the Ontario Human Rights Code or Collective Agreement.

The Town of Kingsville will initiate action without waiting for an individual complaint when harassing or violent behavior, in violation of the Ontario Human Rights Code, is known to be taking place. To do otherwise constitutes misconduct or neglect of duty on the part of the Supervisor, Manager or Director.

### 7.1 Informal Complaint Procedure

1. Clearly and directly ask the offender to stop the harassing or violent behaviour immediately. If the employee is uncomfortable to go to their supervisor or manager.
2. When an individual feels harassment is or has taken place, he or she should advise the offender that his or her behavior is unacceptable and unwelcome. The offender may not realize the kind of behavior is objectionable. Make your objections known; inform the person that his or her behavior is unwelcome or distasteful and that it is against Town of Kingsville policy and / or your collective agreement.
3. Employees are encouraged to try the informal approach unless the harassment is of a more serious nature or continues after the individual has been clearly asked to stop. In such cases, every employee has the right to file a formal complaint.

### 7.2 Formal Complaint Procedures

A formal complaint of harassment must be made in writing by filling out the Workplace Violence and Harassment Incident / Complaint Form. The completed form can be submitted to any or all of the following individuals:

- Workplace Violence and Harassment Coordinator (Human Resources Manager)
- Union Steward
- Supervisor, Manager or Director
- Chief Administrative Officer (CAO)

If the formal complaint is not made directly to the Coordinator the Union Steward, Supervisor, Manager, Director or Chief Administrative Office will forward the formal complaint form to the Coordinator.

Upon receipt of a formal complaint the Coordinator will immediately notify the respondent of the complaint and provide the respondent with a copy of the written

complaint. The respondent will be invited to reply in writing to the complainant's allegations and the respondent's reply will be made known to the complainant.

The Coordinator will investigate any formal complaint using the Workplace Violence and Harassment Investigation Standard Operating Procedure. Should the complaint involve any of the individuals normally involved in the investigation of a complaint, the Coordinator may refer the complaint and investigation to an external investigator. Complainants and respondents, if they so choose, may seek representation of their choice, including union representation or legal counsel, at any time during the complaint process, at their own expense.

The investigators are responsible for ensuring a thorough, fair and impartial investigation of the allegations in the complaint. As outlined in the Workplace Violence and Harassment Investigation Standard Operating Procedure, the investigator will interview the complainant, the respondent and any relevant witnesses as well as gather any documents relevant to the complaint. All members of the Town of Kingsville are required to cooperate fully with any investigation.

Any investigation and interviews which are required as a result of the complaint will be completed within thirty (30) working days from receipt of the complaint, although extenuating circumstance may warrant an extension. If the complaint takes the form of a grievance, any Collective Agreement provisions regarding response time will supersede the time frames outlined herein. To protect confidentiality and minimize stress for all parties involved, interviews will be held in a private neutral location with interview times staggered to ensure that chance encounters do not occur.

At the conclusion of the investigation, the investigators will submit a written report by filling out the Workplace Violence and Harassment Investigation Follow Up Form to the CAO. Where it is determined that the Workplace Violence and Harassment Policy has been violated, the CAO will recommend corrective action and disciplinary measures to the Personnel Committee. The Coordinator shall advise both the complainant and respondent of the outcome of the investigation and each will be provided with a copy of the Investigator's Workplace Violence and Harassment Investigation Follow Up Form.

Where the complainant is dissatisfied with the outcome of the investigation, the complainant shall be reminded of his / her rights under the Ontario Human Rights Code.

If the complainant decides not to lay a formal complaint, the Coordinator, the CAO or other members of Management may choose, at their own discretion, to proceed with a formal complaint based on the investigation of the incident.

## **8.0 Seeking Immediate Assistance**

Canada's Criminal Code addresses violent acts, threats and behaviours, such as stalking. The police should be contacted immediately when an act of violence has occurred in the workplace or when someone in the workplace is threatened with violence. If an employee feels threatened by a co-worker, volunteer, contractor, student, vendor, visitor, client or customer an immediate call to "911" or the use panic buttons is

required. Workers who work off site will have a cell phone or two-way radio, charged and available for use when required to work away from the workplace.

## **9.0 The Right to Refuse Unsafe Work**

The right to refuse unsafe work is a legal right of every worker provided by the Occupational Health and Safety Act the Town of Kingsville is committed to ensuring a safe workplace.

## **10.0 Special Circumstances**

Should an employee have a legal court order (e.g., a restraining order, or “no-contact” order) against another individual, the employee is encouraged to notify his or her supervisor / manager / director and to supply a copy of the order to the Coordinator. This will be required in instances where the employee strongly feels the aggressor may attempt to contact the employee at the Town of Kingsville, in direct violation of the court order, so the Town of Kingsville may take all reasonable actions to protect the employee. Such information shall be kept confidential and protected in accordance with all applicable legislation.

As outlined in the Domestic Violence Safety Plan Standard Operating Procedure, if an employee is experiencing or is at risk of experiencing domestic violence or they know of a fellow employee that is experiencing or at risk of experiencing domestic violence, they should notify the Coordinator. In consultation with the Coordinator, a Domestic Violence Safety Plan will be put in place by completing the Domestic Violence Safety Plan Form.

If any visitor to the Town of Kingsville workplace is seen with a weapon, is known to possess one or makes a verbal threat or assault against an employee or another individual, employees are required to immediately contact the police, emergency response services, their immediate supervisor and the Coordinator.

In cases where criminal proceedings are forthcoming, the Town of Kingsville will assist police agencies, lawyers, insurance companies and courts to the fullest extent.

## **11.0 Fraudulent or Malicious Complaints**

The Violence and Harassment Policy and Program must never be used to bring fraudulent or malicious complaints against employees. It is important to realize that unfounded or frivolous allegations of violence and harassment may cause both the accused person and the Town of Kingsville significant damage. If it is determined any employee has knowingly made false statements regarding an allegation of violence or harassment immediate disciplinary action will be taken.

Employees will not be demoted, dismissed, disciplined or denied a promotion, advancement or employment opportunities because they rejected sexual advances or because they lodged a complaint when they honestly believed they were being harassed or discriminated against.

## **12.0 Disciplinary Measures**

If it is determined that any employee has been involved in a violent behaviour, unacceptable conduct or harassment of another employee, disciplinary action will be taken. Such disciplinary action will be proportional to the seriousness of the behaviour concerned and may involve counselling, a formal warning or termination.

## **13.0 Confidentiality**

The Town of Kingsville will, to the extent possible, protect the privacy of the individuals involved and will ensure that complainants and respondents are treated fairly and respectfully. The Town of Kingsville will protect this privacy so long as doing so remains consistent with the enforcement of this policy and adherence to the law. Neither the name of the person reporting the facts nor the circumstances surrounding them, the written complaint, witness statements, investigation notes, reports and documents related to the complaint will be disclosed, unless such disclosure is necessary for an investigation or disciplinary action.

## **14.0 Managing and Coaching**

Counselling, performance appraisals, work assignments and the implementation of disciplinary actions are not forms of harassment and this policy does not restrict management in these areas.

## **15.0 REVIEW / AMENDMENTS**

The Town of Kingsville will review this Standard Operating Procedure annually along with the Workplace Violence and Harassment Policy.

| <b>No.</b> | <b>Date</b> | <b>Revision</b> | <b>Revision By</b> |
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Questions regarding the Standard Operating Procedure direct to the Human Resources Manager.